

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

CISCO-3550

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on September 1, 2006

Signature _____

Typed or printed name John W. Crosby

Application Number

09/922,175

Filed

August 1, 2001

First Named Inventor

James E. Kracht

Art Unit

2154

Examiner

Ashokkumar B. Patel

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 49,058

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

John W. Crosby

Typed or printed name

775-586-9500

Telephone number

September 1, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒

*Total of 5 forms are submitted.

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PATENT
CISCO-3550

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 2154

Examiner: Patel, Ashokkumar B.

Serial No. 09/922,175

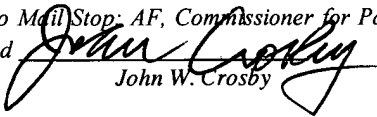
Filed: August 1, 2001

In Re Application of: James E. Kracht

For: IDENTIFYING MODULAR CHASSIS COMPOSITION BY USING
NETWORK PHYSICAL TOPOLOGY
INFORMATION

Certificate of Mailing

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John W. Crosby

**ARGUMENT ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR
REVIEW**

Mailstop: AF
Commissioner of Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Argument Accompanying Pre-Appeal Brief Request for review is submitted
in response to the Final Office Action mailed on May 1, 2006.

With respect to claims 1, 13, 18, and 25 (all pending independent claims), Applicant respectfully submits that not all of the claimed elements in the independent claims are taught, suggested, or otherwise disclosed by Fee. Claim 1 of the present application reads:

(Original) In a communications system apparatus with an Ethernet backplane and at least one internal occupant, a method for identifying internal occupants comprising:
 verifying that a system switch processor ("SSP") has been assigned an IP address;
 requesting a discovery protocol data package from said SSP;
 determining whether said discovery protocol data package corresponds to said at least one internal occupant; and
 if said discovery protocol data package corresponds to said at least one internal occupant, then discovering occupant information corresponding to said at least one internal occupant.

Fee, however, fails to teach or disclose the claimed limitation of requesting a discovery protocol data package from the SSP. Examiner has cited Fee at col. 8, lines 47-55 as disclosing this limitation. However, fee, at col. 8, lines 47-55 reads:

5. MIB Distribution

The DCA uses MIBs to gather information about the chassis and to effect control on the chassis. A MIB is a collection of managed objects (MOs) organized into a naming (MIB) tree with each object having a unique name or identifier within the tree. The identifier is known as an OID or Object IDentifier. In order for the DCA to operate as a single entity across all the modules in the chassis, all the MIBs supported by the chassis must be distributed across all the modules.

However, the Examiner has also likened the DCA to the SSA of the claimed invention, by saying that "Fee teaches ...(the claim limitation of) verifying that a system switch processor (SSP) (col. 8 line 33-38, "DCA") has been assigned an IP address (col. 6, line 21-52). The examiner cannot say that the DCA of Fee not only is the SSP of the present application AND ALSO requests the discovery protocol data package from said

SSP, as such a reading means that the DCA in Fee is requesting a discovery protocol data package FROM ITSELF. Furthermore, Fee at col. 8 lines 47-55 does not describe requesting a discovery protocol data package, it merely says that the DCA uses MIBs to gather information about the chassis. If the Examiner wants to read in protocol data into this portion of Fee, or any other, and maintain a rejection based on “information about the chassis” necessarily means a protocol data package, Applicant respectfully requests evidence supporting such an assertion.

In response to this argument, the Examiner cited “facts about DCA” that again failed to describe a DCA from which information is requested, but actually described a destination module to which packets are sent, and there is no description of the packets as being a request of any sort. Thus, Applicant argues that Examiner has failed to address Applicant’s arguments.

Because Fee does not teach, suggest, nor otherwise disclose requesting a discovery data protocol package, Applicant also respectfully submits that Fee fails to teach, suggest, or otherwise disclose the claimed limitation of if said discovery protocol data package corresponds to said at least one internal occupant, then discovering occupant information corresponding to said at least one internal occupant. While the Examiner cites Fee at col. 7, lines 1-5 as disclosing this limitation, col. 7, lines 105 merely reads:

Module Type

Chassis IP address

Chassis MAC address

Chassis Serial number

SMB controller status

And therefore lacks the necessary verbage contained in the claimed limitation. Specifically, there is no disclosure in this portion of Fee or any other that describes making a determination that a said discovery protocol data package corresponds to said at least one internal occupant, AND there is no disclosure in this portion or any other portion in Fee of discovering occupant information corresponding to said at least one internal occupant once such a determination is made.

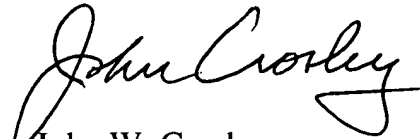
Applicant respectfully submits that the Examiner failed to address these arguments above in the final Office Action mailed May 1, 2006, and continues to argue that Fee teaches a DCA in accordance with the present invention, despite the fact that Applicant has pointed out that what the Examiner considers to be a DCA serves as a destination in Fee rather than a source, from which information is requested (see claim 1 of the present invention).

Without particularly pointing out where a cited reference anticipates the limitations of a claim, a 35 USC 102(e) rejection cannot be maintained.

Date: September 1, 2006

Sierra Patent Group, Ltd.
P.O. Box 6149
Stateline, Nevada 89449
Telephone: (775) 586-9500

Respectfully submitted,
SIERRA PATENT GROUP,
LTD.



John W. Crosby
Reg. No. 49,058